

§ 405.4

(7) References to §240.17a-3, relating to records, mean §404.2 of this chapter.

(Approved by the Office of Management and Budget under control number 1535-0089)

[52 FR 27954, July 24, 1987, as amended at 59 FR 53731, Oct. 26, 1994; 59 FR 55910, Nov. 9, 1994; 60 FR 18734, Apr. 13, 1995]

§ 405.4 Financial recordkeeping and reporting of currency and foreign transactions by registered government securities brokers and dealers.

Every registered government securities broker or dealer who is subject to the requirements of the Currency and Foreign Transactions Reporting Act of 1970 shall comply with the reporting, recordkeeping and record retention requirements of 31 CFR part 103. Where 31 CFR part 103 and §404.3 of this chapter require the same records to be preserved for different periods of time, such records or reports shall be preserved for the longer period of time.

§ 405.5 Risk assessment reporting requirements for registered government securities brokers and dealers.

(a) Every registered government securities broker or dealer shall comply with the requirements of §240.17h-2T of this title (SEC Rule 17h-2T), with the following modifications:

(1) For the purposes of this section, references to “broker or dealer” and “broker or dealer registered with the Commission pursuant to Section 15 of the Act” mean registered government securities brokers or dealers.

(2) For the purposes of this section, references to §§240.17h-1T and 240.17h-2T of this title mean those sections as modified by §§404.2(b) and 405.5, respectively.

(3) For the purposes of this section, “associated person” has the meaning set out in Section 3(a)(18) of the Act (15 U.S.C. 78c(a)(18)), except that natural persons are excluded.

(4) Paragraph 240.17h-2T(b) of this title is modified to read as follows:

“(b) *Exemptions.* (1) The provisions of this section shall not apply to any registered government securities broker or dealer:

“(i) Which is exempt from the provisions of §240.15c3-3 of this title, as

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made applicable by §403.4, pursuant to paragraph (k)(2) of §240.15c3-3 of this title; or

“(ii) If the registered government securities broker or dealer does not qualify for exemption from the provisions of §240.15c3-3 of this title, as made applicable by §403.4, and such registered government securities broker or dealer does not hold funds or securities for, or owe money or securities to, customers and does not carry the accounts of, or for, customers; unless

“(iii) In the case of paragraphs (b)(1) (i) or (ii) of this section, the registered government securities broker or dealer maintains capital of at least \$20,000,000, including debt subordinated in accordance with Appendix D of §240.15c3-1 of this title, as modified by Appendix D of §402.2.

“(2) The provisions of this section shall not apply to any registered government securities broker or dealer which maintains capital of less than \$250,000, including debt subordinated in accordance with Appendix D of §240.15c3-1 of this title, as modified by Appendix D of §402.2, even if the registered government securities broker or dealer holds funds or securities for, or owes money or securities to, customers or carries the accounts of, or for, customers.

“(3) The provisions of this section shall not apply to any registered government securities broker or dealer which has an associated person that is a registered broker or dealer, provided that:

“(i) The registered broker or dealer is subject to, and in compliance with, the provisions of §240.17h-1T and §240.17h-2T of this title, and

“(ii) All of the Material Associated Persons of the registered government securities broker or dealer are Material Associated Persons of the registered broker or dealer subject to §240.17h-1T and §240.17h-2T of this title.

“(4) In calculating capital for the purposes of this paragraph, a registered government securities broker or dealer shall include with its equity capital and subordinated debt the equity capital and subordinated debt of any other registered government securities brokers or dealers or registered brokers or dealers that are associated persons of

such registered government securities broker or dealer, except that the equity capital and subordinated debt of registered brokers and dealers that are exempt from the provisions of §240.15c3-3 of this title, pursuant to paragraph (k)(1) of §240.15c3-3, shall not be included in the capital computation.

“(5) The Secretary may, upon written application by a Reporting Registered Government Securities Broker or Dealer, exempt from the provisions of this section, either unconditionally or on specified terms and conditions, any registered government securities brokers or dealers that are associated persons of such Reporting Registered Government Securities Broker or Dealer. The term “Reporting Registered Government Securities Broker or Dealer” shall mean any registered government securities broker or dealer that submits such application to the Secretary on behalf of its associated registered government securities brokers or dealers.”

(5) Paragraph 240.17h-2T(c) of this title is modified to read as follows:

“(c) *Special provisions with respect to Material Associated Persons subject to the supervision of certain domestic regulators.* A registered government securities broker or dealer shall be deemed to be in compliance with the reporting requirements of paragraph (a) of this section with respect to a Material Associated Person if such registered government securities broker or dealer files Items 1, 2, and 3 (in Part I) of Form 17-H in accordance with paragraph (a) of this section, provided that:

“(1) Such Material Associated Person is subject to examination by or the reporting requirements of a Federal banking agency and the registered government securities broker or dealer or such Material Associated Person furnishes in accordance with paragraph (a) of this section copies of reports filed by the Material Associated Person with the Federal banking agency pursuant to section 5211 of the Revised Statutes, section 9 of the Federal Reserve Act, section 7(a) of the Federal Deposit Insurance Act, section 10(b) of the Home Owners’ Loan Act, or section 5 of the Bank Holding Company Act of 1956; or * * *

(6) Paragraph 240.17h-2T(d) of this title is modified to read as follows:

“(d) *Special provisions with respect to Material Associated Persons subject to the supervision of a foreign financial regulatory authority.* A registered government securities broker or dealer shall be deemed to be in compliance with the reporting requirements of paragraph (a) of this section with respect to a Material Associated Person if such registered government securities broker or dealer furnishes, in accordance with the provisions of paragraph (a) of this section, Items 1, 2, and 3 (in Part I) of Form 17-H and copies of the reports filed by such Material Associated Person with a Foreign Financial Regulatory Authority. The registered government securities broker or dealer shall file a copy of the original Foreign Financial Regulatory report and a copy translated into the English language. For the purposes of this section, the term Foreign Financial Regulatory Authority shall have the meaning set forth in section 3(a)(52) of the Act.”

(7) Paragraph 240.17h-2T(f) of this title is modified to read as follows:

“(f) *Implementation schedule.* Every registered government securities broker or dealer subject to the requirements of this section shall file the information required by Items 1, 2 and 3 (in Part I) of Form 17-H by July 31, 1995. Commencing September 30, 1995, the provisions of this section shall apply in their entirety.”

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[60 FR 20401, Apr. 26, 1995]

PART 420—LARGE POSITION REPORTING

Sec.

420.1 Applicability.

420.2 Definitions.

420.3 Reporting.

420.4 Recordkeeping.

420.5 Effective Date.

APPENDIX A TO PART 420—SEPARATE REPORTING ENTITY.

APPENDIX B TO PART 420—SAMPLE LARGE POSITION REPORT.

AUTHORITY: 15 U.S.C. 78o-5(f).

SOURCE: 61 FR 48348, Sept. 12 1996, unless otherwise noted.